

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT WILLIAM MAWSON, SR., :

Plaintiff : CIVIL ACTION NO. 3:21-337

v. : (MANNION, D.J.)

ALEXANDRA KOKURA-KRAVITZ, :

Defendant :

ORDER

Presently before the court is the Report and Recommendation (“Report”) of Magistrate Judge Susan E. Schwab. ([Doc. 13](#)). In it, Judge Schwab recommends that the court grant the defendant Magisterial District Judge Alexandra Kokura-Kravitz’s (“MDJ Kravitz”) motion to dismiss, ([Doc. 7](#)). No objections to the Report have been filed.

Even where no objection is made, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P. 72\(b\)](#) advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (M.D.Pa.2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the

findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. Local Rule 72.31.

In her Report, Judge Schwab observes that the grant of MDJ Kravitz's motion to dismiss and the dismissal of the Complaint are appropriate for numerous reasons. First, Judge Schwab observes that the plaintiff filed this case against MDJ Kravitz, who was assigned as the presiding judge over his traffic hearing, seeking to have her recuse herself and have the case transferred outside of the City of Pittston. Because MDJ Kravitz did precisely that and the plaintiff's case was transferred to another judge outside of the City of Pittston, Judge Schwab recommends dismissal on the basis of mootness.

Additionally, the Report observes that dismissal is appropriate because MDJ Kravitz enjoys Eleventh Amendment immunity since the suit is premised upon conduct taken in her official capacity. Similarly, the Report observes that dismissal is appropriate because MDJ Kravitz also enjoys judicial immunity in this instance where the suit is based on allegations involving her prior, and anticipate future, rulings, all of which were within her jurisdiction as a magisterial district judge.

Finally, Judge Schwab notes that dismissal is appropriate since the plaintiff failed to file any brief in opposition to the motion to dismiss and thus he is deemed not to oppose it pursuant to [Local Rule 7.6](#).

Having conducted a thorough review of all pertinent filings, the court finds the Report of Judge Schwab to be well-reasoned and well-supported. As such, the court will adopt the Report in its entirety as the decision of the court.

Additionally, the court notes that because it is apparent that granting leave to amend would be futile since the Complaint, as amended, “would nonetheless be subject to dismissal for failure to state a claim,” the dismissal will be with prejudice. [Fallon v. Mercy Cath. Med. Ctr.](#), 877 F.3d 487, 494 (3d Cir. 2017).

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) Judge Schwab’s Report, ([Doc. 13](#)), is **ADOPTED IN**

ITS ENTIRETY;

(2) MDG Kravitz’s motion to dismiss, ([Doc. 7](#)), is

GRANTED;

(3) The Complaint, ([Doc. 1](#)), is **DISMISSED WITH**

PREJUDICE; and

(4) The Clerk of Court is directed to **CLOSE THIS CASE.**

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: July 19, 2021

21-337-01